

Exhibit B

KELLOGG, HANSEN, TODD, FIGEL & FREDERICK, P.L.L.C.

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December 6, 2023

Via Electronic Mail

Caroline P. Boisvert
Axinn, Veltrop & Harkrider, LLP
90 State House Square
Hartford, CT 06103

Re: *In re Google Digital Advertising Antitrust Litigation*, No. 1:21-md-03010 (PKC)

Dear Ms. Boisvert:

We write in response to your letter of November 10 and your colleague's search proposal of November 17.

Search Terms and Custodians

Daily Mail and Google have been negotiating search terms and custodians for nearly seven months. Google made its first search term proposal on May 12, 2023. On May 15, 2023, Daily Mail proposed a set of 14 broad search terms and 11 custodians targeted at locating documents responsive to Google's requests for production. The parties met and conferred several times and, as of July 17, Daily Mail had agreed to run 19 additional Google-proposed search terms over documents collected from Daily Mail's proposed custodians. Google never proposed any custodians in addition to the 11 proposed by Daily Mail. We explained in July that Daily Mail's search protocol (as augmented throughout our negotiations with Google) was more than sufficient. We asked that, if Google disagreed, Google should explain why. Google failed to do so. To date, Daily Mail has made 5 productions using that search protocol, totaling over a terabyte of data and nearly 36,000 documents. Your November 10 letter's suggestion (at 2) that Daily Mail "is not willing to engage with" Google "on how it has searched for, identified, and collected documents" is false. Daily Mail engaged extensively with Google's lawyers from Wilson, Sonsini, Goodrich & Rosati, P.C., to come to an agreement regarding the search protocol Daily Mail would use to locate and produce documents responsive to Google's requests.

On October 19, 2023, Google's counsel from Wilson Sonsini, notified us that a team of attorneys from Axinn, Veltrop & Hardiker, LLP would be taking over negotiations between

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Google and Daily Mail. In order to ensure that our negotiations did not retread old ground, we provided an overview of where things stood following Google's and Daily Mail's last meet and confer on August 10.

Ignoring months of negotiation, the new counsel Google assigned to Daily Mail seeks to restart negotiations from scratch. For instance, although Google had Daily Mail's list of 11 proposed custodians for over 6 months, Google proposed 13 new custodians for the first time on November 17. Google provided no explanation for its delay in proposing these additional custodians. Additionally, rather than taking as a starting point the 33 search terms Daily Mail has already agreed to run, Google has proposed an expanded, modified, and altogether reworked search term proposal that wipes the past several months of negotiation off the board. Google's counsel from Axinn may not agree with the approach to these negotiations taken by Google's counsel from Wilson Sonsini, but ignoring months of negotiations is inefficient and further delays the parties reaching an agreement.

In an effort to pick up where Google left the negotiations in August, Daily Mail has, in Appendix A, set out the agreed search terms and custodians as of July 17. Daily Mail understands Google's most recent proposal to include 16 completely new terms not previously proposed by either party. For Google's benefit, Daily Mail provides hit counts associated with those 16 new terms and the reasons Daily Mail is rejecting those terms in Appendix B. The remaining terms in Google's November 17 proposal appear to be heavily revised versions of Google's and Daily Mail's previously-proposed terms. Indeed, Google's new proposal includes, without explanation, heavy revisions to almost all of the Google-proposed terms that Daily Mail has already accepted and pursuant to which Daily Mail has begun reviewing and producing documents. It does not make sense to undo our prior agreements and Daily Mail does not agree to do so. If Google believes that the agreed search protocol in Appendix A is insufficient, we invite Google to propose additional search terms to address any purported deficiency.

Google provided no justification for its proposal, made six months into negotiations, to more than double the number of Daily Mail custodians. Daily Mail's 11 proposed custodians are the individuals most likely to have documents responsive to Google's requests. If Google believes additional custodians are necessary, please explain why.

Go-Get Documents:

Daily Mail confirms that it is searching centrally located files for documents responsive to Google's requests, including those identified in your November 10 letter.¹ Collection is ongoing and Daily Mail is not required to identify a date certain by which Daily Mail will

¹ For the avoidance of doubt, Daily Mail is undertaking this search without waiving any of its objections to the Google-identified requests.

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complete its production of so-called “go-get” documents. Daily Mail will continue to produce responsive documents on a rolling basis.

Data:

Daily Mail will continue to produce data, including financial data, on a rolling basis. Daily Mail notes that it has already produced over a terabyte of data responsive to Google’s requests.

Initial Disclosures:

Daily Mail disagrees that its initial disclosures are deficient. Daily Mail, though, is willing to supplement its initial disclosures. Daily Mail will do so in due course.

Interrogatory Responses:

As with search terms and custodians, the Axinn team retreads old ground with respect to interrogatories. Daily Mail served its Second Supplemental Interrogatory Responses on April 21, 2023. Google did not identify any deficiency in those responses for over two and a half months, and even then identified only four interrogatories for which it sought additional supplementation. *See* E. Maier Letter, Aug. 9, 2023.² Now, Google identifies purported deficiencies in 19 additional interrogatory responses. For many of those interrogatories Google offers no further explanation of the alleged deficiency than that Daily Mail’s responses are “high level, incomplete, and refer back to Daily Mail’s Complaint without elaboration.” As with search terms, Google’s ignoring months of back and forth between it and Daily Mail is not an efficient way to proceed. To the extent that Google has serious requests for supplementation, Google may provide those with specificity, and Daily Mail will determine whether those requests are relevant, proportional and response is required under the Federal Rules of Civil Procedure.

Interrogatory No. 1: Daily Mail is willing to supplement its response to this Interrogatory.

Interrogatory No. 3: Google sought in its interrogatory, “all of [Daily Mail’s] employees or agents involved in selling advertising space.” That request is facially overbroad. Accordingly, Daily Mail identified “individuals likely to have non-cumulative discoverable information,” naming six individuals in addition to the five Daily Mail employees and former employees identified in the initial disclosures. Daily Mail is willing to supplement its response to this interrogatory.

² These were interrogatories 2, 7, 16 and 22. Daily Mail remains willing to supplement its responses to those interrogatories and will do so in due course.

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Interrogatory No. 4: Since our last meeting, Daily Mail has identified additional network IDs and will supplement its response without waiving its objections. However, it is not, as you contend (at 3) “no answer” that Google already has the information Google is requesting from Daily Mail. Federal Rule 26 discourages parties from serving burdensome discovery requests when “more convenient, less burdensome, or less expensive” alternative sources exist. Fed. R. Civ. P. 26(b)(2)(C)(i). Given that Google is the proponent of this request and presumably knows precisely which of its own Google account/customer IDs it seeks, it is more convenient for Google to retrieve that information from its own records. Despite Daily Mail’s best efforts to identify its digital advertising account IDs with Google, discovery to date suggests that Google may maintain different account IDs associated with publishers than the ones it discloses to its publisher customers. Daily Mail’s answers thus may never be complete if relying on Daily Mail’s records alone. Please confirm that Google will provide Daily Mail with documents responsive to MDL Plaintiffs’ RFPs 255 and 256.

Interrogatory No. 10-15, 17-21, and 23: Your assertion that Daily Mail’s responses to these Interrogatories “are high-level, incomplete, and refer back to Daily Mail’s Complaint without elaboration” offers no guidance regarding what supplementation Google seeks. Daily Mail is willing to consider supplementing its responses to those interrogatories if Google identifies with specificity what supplementation it believes is necessary.

Interrogatory No. 5, 6, 12, 13, 15, 21: Daily Mail has not withheld information responsive to these Interrogatories due to Google’s insufficient discovery responses. However, Daily Mail cannot make a complete answer to these Interrogatories until Google completes its production, particularly of the documents and other materials it is obliged to do produce from Daily Mail-specific custodians under Judge Castel’s November 2, 2023 order.

Interrogatory No. 29: Regarding Interrogatory No. 29, Daily Mail stated that it “seeks monetary damages, in an amount to be determined at trial, caused by Google’s unlawful conduct described in Daily Mail’s First Amended Complaint and any subsequent operative complaint Daily Mail files. Daily Mail also seeks pre- and post-judgment interest; punitive damages; restitution; and litigation expenses, including but not limited to attorneys’ fees and costs, to the extent permitted by law.” Daily Mail also stated that “a computation of the amount of those damages is premature, as the Daily Mail’s damages is highly dependent on information to be obtained in discovery.” Discovery remains incomplete, particularly regarding MDL Plaintiffs’ outstanding discovery requests and the documents and other materials Google is obliged to produce from Daily Mail-specific custodians under Judge Castel’s November 2, 2023 order. Accordingly, any damages calculation at this point remains premature. Nevertheless, Daily Mail is willing to supplement its response to this Interrogatory.

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Sincerely,

/s/ Eric J. Maier

Eric J. Maier

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Appendix A

Confirmed Search Protocol

Custodians:

- Hannah Buitekant
- Rich Caccappolo
- Feifan Chen
- Jacqui Feng
- Jeremy Gan
- Adam Leslie
- Jesus Mendez
- Donna Ogier
- Tom Pickworth
- Henry Thomas
- Matthew Wheatland

Relevant Period:

- January 1, 2013 – Present

Search Terms:

Confirmed Search Terms	
Term	Date Confirmed
("business plan" OR strateg* OR forecast* OR roadmap OR "financial statement" OR (allocat* w/3 inventory)) w/10 ("Ad tech" OR "Display Advertising" OR DoubleClick OR "Double Click" OR "Double-Click" OR DFP OR "Ad Manager" OR GAM OR "Ad Exchange" OR AdX OR "Ad X" OR "Ad Server" OR "Demand Side Platform" OR "Demand-Side Platform" OR DSP OR "Header Bidding" OR HB)	May 15, 2023
(study OR analysis OR report OR presentation) w/5 ("display advertising" OR "programmatic direct" OR remnant OR backfill OR "demand driver" OR audience OR (visitor /5 characteristic) OR readership OR "advertising consultant" OR "advertising agenc*" OR (auction /3 (rule OR form OR mechanism)))	May 15, 2023
((cost w/2 benefit) OR CBA OR analys* OR switch* OR RFP OR contract) w/10 (pric* OR quality OR feature* OR effective*) w/10 ("Ad tech" OR "Display Advertising" OR DoubleClick OR "Double Click" OR "Double-Click" OR DFP OR "Ad Manager" OR GAM	May 15, 2023

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Confirmed Search Terms	
OR "Ad Exchange" OR AdX OR "Ad X" OR "Google Ads" OR "Ad Server" OR "Demand Side Platform" OR "Demand-Side Platform" OR DSP OR "Supply Side Platform" OR "Supply-Side Platform" OR SSP OR "Header Bidding" OR HB)	
(study* OR studies OR "A/B test*" OR evaluat* OR (cost* w/2 benefit*)) w/10 (integrat* OR ((number OR limit* OR cap*) w/3 "line item*)) w/10 ("Header Bidding" OR HB OR "clientside" OR "client side" OR "server-side" OR "server side")	May 15, 2023
("display advertising") w/10 (factor OR cost OR effective* OR yield) w/10 (format OR channel)	May 15, 2023
(develop* OR launch* OR licens* OR feature* OR pricing OR interopera* OR SWOT OR (strength* /2 weakness*)) w/10 ("Ad Tech" OR "ad server" OR "ad exchange" OR Meta OR Twitter OR LinkedIn OR Amazon) w/10 compet*	May 15, 2023
(analysis OR analyz*) w/10 ("direct transaction" AND "indirect transaction") OR ("Ad Exchange" AND ("Ad Network" OR Publisher-Automated Transaction"))	May 15, 2023
(Traffic OR Impression* OR visit* OR clicks OR visib*) w/10 (manipulate* OR gaming OR game OR exploit OR control OR steer) w/10 Google	May 15, 2023
Dynamic Allocation OR Enhanced Dynamic Allocation OR EDA OR (Bernanke w/10 Google) OR Dynamic Revenue OR Viewable CPM OR VCPM OR Poirot OR (Elmo w/10 Google) OR (Data /10 Redact) OR ("Line Item" w/10 (cap OR limitation)) OR "Unified Pricing Rules" OR UPR OR "Open Bidding" OR "Bid Data Transfer File," OR "Minimum Bid To Win"	May 15, 2023
("Accelerated Mobile Pages" OR AMP OR (mobile w/2 (format OR design))) w/10 (comply OR compliance OR conversion* OR profit* OR latency OR spam OR malware OR "header bidding" OR HB)	May 15, 2023
("User ID" OR "User identifier*" OR (user w/2 identit*) OR "third-party cookie*") w/10 ("Ad tech" OR "Display Advertising" OR DoubleClick OR "Double Click" OR "Double-Click" OR DFP OR "Ad Exchange" OR AdX OR "Ad X" OR "Ad Server" OR "Demand Side Platform" OR "Demand-Side Platform" OR DSP OR revenue OR monetize* OR strateg*) ((AdX OR "Ad X" OR (google w/3 "ad exchange")) w/10 ("Google Ad Connector" OR "direct tag*" OR "Google publisher tag*") AND (doubleclick OR "double-click" OR "double click" OR DFP OR "Ad Manager" OR GAM))	May 15, 2023
Content w/10 (relationship OR relate OR cause OR drive) w/10 ("advertising revenue" OR (fees w/3 ("ad tech" or google)))	May 15, 2023
(report OR data OR analytics OR metrics) w/10 ("display advertising") AND (Google OR "Ad Tech" OR provider)	May 15, 2023
"Private Marketplace"	July 17, 2023
Direct w/10 Transaction	July 17, 2023
Programmatic w/10 Transaction	July 17, 2023
Remnant	July 17, 2023
Direct w/10 (transaction* OR sale)	July 17, 2023

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Confirmed Search Terms	
"Dynamic Allocat*"	July 17, 2023
Bernanke	July 17, 2023
"Dynamic Revenue Share"	July 17, 2023
(Line w/10 cap)	July 17, 2023
“auction data”	July 17, 2023
Poirot	July 17, 2023
"Project Elmo"	July 17, 2023
"Uniform Pric*"	July 17, 2023
"Open Bid"	July 17, 2023
"Bid Data Transfer"	July 17, 2023
BDT	July 17, 2023
"Minimum Bid*"	July 17, 2023
(“Google Display Network” OR GDN) AND (AdSense OR DFP OR DoubleClick)	July 17, 2023
“News Media Alliance” OR NMA	July 17, 2023

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Appendix B
New Google Terms

New Google Terms		
Term	Hit Count	Response
((ad* w/5 revenue*) OR profit*) AND (Ukraine OR Covid* OR corona* OR declin* OR reduc*)	122,732	Overbroad; unnecessary in light of the agreed upon terms
breach* w/10 privac*	4,100	Irrelevant; unnecessary in light of the agreed upon terms
(contract* OR negotiat* OR propos* OR RFP OR complain*) w/10 ("Ad tech" OR "Display Advertising" OR DoubleClick OR "Double Click" OR "Double-Click" OR DFP OR "Ad Manager" OR GAM OR "Ad Exchange" OR AdX OR "Ad X" OR "Ad Server" OR "Demand Side Platform" OR "Demand-Side Platform" OR DSP OR "Header Bidding" OR HB OR inventory OR "in-app" OR Google)	92,025	Overbroad; unnecessary in light of the agreed upon terms.
(cost* OR expens* OR profit* OR revenue OR spend* OR fee) w/10 ("programmatic" OR (remnant w/3 sale*) OR impression* OR "Ad tech" OR "Display Advertising" OR DoubleClick OR "Double Click" OR "Double-Click" OR DFP OR "Ad Manager" OR GAM OR "Ad Exchange" OR AdX OR "Ad X" OR "Ad Server" OR "Demand Side Platform" OR "Demand-Side Platform" OR DSP OR "Header Bidding" OR HB OR inventory OR "in-app")	406,760	Overbroad; unnecessary in light of the agreed upon terms.
(user w/3 privacy) AND ("display advertising")	2,381	Unnecessary in light of the agreed upon terms
(calculat* OR stud* OR analy* OR report* OR presentation* OR deck* OR record* OR (board w/3 material*)) w/10 (overcharge OR loss* OR reduc* OR damag* OR harm*)	69,062	Overbroad; unnecessary in light of the agreed upon terms.
("DOJ" OR "Department of Justice" OR ".gov" OR SEC OR "Securities and Exchange Commission" OR government OR FTC OR "Federal Trade Commission") AND ("Ad tech" OR "Display Advertising" OR DoubleClick OR "Double Click" OR "Double-Click" OR DFP OR "Ad Manager" OR GAM OR "Ad Exchange" OR AdX OR "Ad X" OR "Ad Server" OR "Demand Side Platform" OR "Demand-Side Platform" OR DSP OR "Header Bidding" OR HB OR inventory OR "in-app")	90,912	Overbroad; unnecessary in light of the agreed upon terms.

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New Google Terms		
(document* OR record* OR messag* OR chat* OR file*) w/5 (retain* OR retention* OR preserv* OR maintain*)	12,286	Unnecessary in light of the agreed upon terms.
(discov* OR investigat* OR litigat* OR claim* OR affidavit* OR declaration* OR alleg* OR subpoena*) AND (“Ad tech” OR “Display Advertising” OR DoubleClick OR “Double Click” OR “Double-Click” OR DFP OR “Ad Manager” OR GAM OR “Ad Exchange” OR AdX OR “Ad X” OR “Ad Server” OR “Demand Side Platform” OR “Demand-Side Platform” OR DSP OR “Header Bidding” OR HB OR inventory OR “in-app” OR Google)	583,153	Overbroad; unnecessary in light of the agreed upon terms.
((“display advertising” OR “print advertising”) w/5 (format* OR channel* OR publish* OR “ad tech” OR “adtech” OR revenue* OR cost* OR effect* OR target* OR yield* OR desktop* OR mobile* OR “app display” OR television*)) w/10 (study* OR analy* OR report* OR presentation* OR deck* OR record* OR compar*)	12,070	Overbroad; unnecessary in light of the agreed upon terms.
“News Carousel” w/5 (mobile* OR search* OR result* OR scroll* OR displace*)	2,245	Unnecessary in light of the agreed upon terms
ad* w/5 (revenue* OR profit* OR business* OR strateg* OR plan* OR report*)	827,494	Overbroad; unnecessary in light of the agreed upon terms.
revenue* w/3 (source* OR plan* OR business* OR strateg* OR presentation* OR report*)	182,600	Overbroad; unnecessary in light of the agreed upon terms.
((content* OR article* OR piece* OR writing* OR video* OR media*) w/5 (“web page*” OR webpage OR app* OR mobile)) AND (stat* OR number* OR overview OR analytics OR metric*)	738,507	Overbroad; unnecessary in light of the agreed upon terms.
(content* OR article* OR piece* OR writing* OR video* OR media*) AND (ad* w/3 (revenue* OR income* OR fee* OR cost* OR price*))	410,932	Overbroad; unnecessary in light of the agreed upon terms.
(profit* OR loss*) AND *manag*	164,139	Overbroad; unnecessary in light of the agreed upon terms.